1982 No. 155

BUILDING SOCIETIES

The Building Societies (Authorisation) Regulations (Northern Ireland) 1982

Made . . . . . *20th May 1982*

Coming into operation . . . . *6th July 1982*

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The Department of Commerce, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the authorisation of the carrying on of the business of a building society and the regulation of such business and its conduct and in relation to anything supplemental or incidental thereto, in exercise of the powers conferred by that section and of every other power enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Building Societies (Authorisation) Regulations (Northern Ireland) 1982 and shall come into operation on 6th July 1982.

(a) The European Communities (Designation) (No. 2) Order 1981, S.I. 1981/833
(b) 1972 c. 68

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(a) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these regulations—

"the Act of 1967" means the Building Societies Act (Northern Ireland) 1967(b);

"appointed day" means the day on which these regulations come into operation;

"authorisation", "authorised" and "authorised building society" have the meanings given by regulation 5;

"banking or finance company" means any body corporate or partnership whose ordinary business includes the business of banking and any other body corporate whose ordinary business includes the business of lending money;

"building society" has the meaning given by section 1(4) of the Act of 1967;

"deferred shares", "assets" and "reserves" have the meaning given by Schedule 1;.

"the Department" means the Department of Commerce;

"the Registrar" has the meaning given by section 128 of the Act of 1967.

Restrictions on building societies' borrowing and acceptance of subscriptions for shares

3.—(1) Subject to regulation 4 a building society shall not—

(*a*) accept the deposit of, or otherwise borrow, any money, or

(*b*) accept any payment representing the whole or any part of the amount due by way of subscription for a share in the building society

unless it is authorised to do so in accordance with regulation 5.

(2) A contravention of this regulation shall not affect any civil liability arising in respect of the acceptance or of the funds accepted.

Exceptions to the restrictions in regulation 3

4. Regulation 3 shall not apply to—

(*a*) the acceptance of payments by way of subscription for deferred shares;

(*b*) the acceptance of payments, representing the whole or any part of the amount due by way of subscription for a share in the building society, which fell due before the restrictions referred to in regulation 3 applied to the building society;

(*c*) the acceptance of payments for amounts due in respect of a share which represent interest on, or the repayment of, an advance made to the holder of the share;

(*d*) borrowing from a banking or finance company, or from a director or other officer of the building society, if the building society has obtained the consent in writing of the Department;

(*e*) borrowing under section 44 of the Act of 1967 (assistance by one building society to another).

Authorised building societies

5.—(1) Authorisation may be granted by the Department on an application made in that behalf by a building society.

(2) A building society shall be deemed to be authorised on the appointed day if—

(a) 1954 c. 33 (N.I.)
(b) 1967 c. 31 (N.I.)

(*a*) it was formed, whether by incorporation or union, before the appointed day; and

(*b*) in the case of a building society which was incorporated after 1st October 1964, it has before the appointed day obtained a certificate under section 13(1) of the Act of 1967; and

(*c*) it is not on the appointed day subject—

(i) to an order made under section 48 of the Act of 1967 (power to suspend borrowing and subscription for shares); or

(ii) to a direction made under section 55(5) of the Act of 1967 (special power in relation to small building societies); or

(*d*) on the appointed day the building society is not in the course of being wound up or dissolved.

(3) A building society formed on or after the appointed day on the union of two or more building societies shall be deemed to be authorised, if all those building societies are authorised at the time when the union takes effect.

(4) The expressions "authorisation", "authorised" and "authorised building society" in these regulations shall be construed accordingly.

Procedure on application for authorisation

6.—(1) An application for authorisation shall be made in such manner as the Department may specify and shall be accompanied by such information as it may reasonably require, either generally or in any particular case, in order to reach a decision on the application.

(2) If required to do so by notice in writing from the Department, given at any time before a decision on an application made under paragraph (1) has been reached, the applicant building society shall send to the Department such additional information as it may reasonably require in order to reach a decision.

(3) If, on an application made under paragraph (1), the Department proposes to refuse to grant authorisation, it shall serve a notice on the applicant building society stating—

(*a*) that it proposes to refuse to grant authorisation; and

(*b*) the reasons for the proposed refusal; and

(*c*) that the applicant building society may make representations with respect to the proposed refusal within such period being a period of not less than twenty-eight days as may be specified in the notice, and that, if the building society so requests, the Department will afford to it an opportunity of being heard by it within that period.

(4) Before reaching a decision to refuse an application made under paragraph (1), the Department shall consider any representations which have been made in accordance with paragraph (3)(*c*).

(5) If, on an application made under paragraph (1), the Department grants authorisation, it shall issue to the applicant building society a certificate in Form AI of Schedule 2.

(6) If, on an application made under paragraph (1), the Department refuses to grant authorisation, it shall give notice in writing to the applicant building society of the refusal and of the reasons for it and, subject to paragraph (7), this notice shall be given before the expiry of the period of six months beginning on the date on which the application was received by the Department.

(7) In any case where, under paragraph (2), the Department requires additional information with respect to an application, the latest time for the giving of a notice under paragraph (6) with respect to that application shall be the expiry of whichever of the following periods first expires, namely—

(*a*) a period of six months beginning on the date on which the additional information was received by the Department; or

(*b*) a period of twelve months beginning on the date on which the application was received by the Department.

Conditions for the grant of authorisation

7. On an application made by a building society for authorisation under regulation 6, the Department shall not grant authorisation unless it is satisfied—

(*a*) that the building society fulfils the conditions, as to deferred shares or reserves, specified in Schedule 1; and

(*b*) that the business of the building society is effectively directed by individuals who—

(i) are at least two in number; and

(ii) are of sufficiently good repute and sufficient experience to perform their duties.

Grounds for revocation of authorisation

8.—(1) The Department may revoke the authorisation of a building society if it appears to the Department that—

(*a*) any of the information furnished in connection with the application made by the building society under regulation 6 was false or misleading in any material particular; or

(*b*) a period of twelve months has elapsed since the date when the building society was authorised or deemed to be authorised and the building society has not accepted any funds (other than payments for deferred shares) during that period; or

(*c*) the building society has not accepted any funds (other than payments for deferred shares) during a period exceeding six months; or

(*d*) subject to paragraph (3), the building society does not fulfil any one or more of the conditions mentioned in sub-paragrap (*a*) or (*b*) of regulation 7; or

(*e*) the building society can no longer be relied upon to fulfil its obligations to its creditors, depositors or members.

(2) The Department shall revoke the authorisation of a building society if—

(*a*) the Registrar has made an order under section 48 of the Act of 1967 applying sub-section (2) of that section to the building society; or

(*b*) the Registrar has given to the building society a direction under section 55(5) of the Act of 1967; or

(*c*) the registration of the building society has been cancelled or suspended in accordance with the provisions of section 114 or 115 of the Act of 1967; or

(*d*) the building society has transferred its engagements to, or united with, another building society; or

(*e*) the building society has given the Department notice in writing that it wishes to renounce authorisation; or

(*f*) proceedings have been commenced for the winding up or dissolution of the building society.

(3) In the case of a building society which is deemed to be authorised by virtue of regulation 5(2), the Department shall not within a period of 18 months after the appointed day revoke the authorisation of the building society under paragraph (1)(*d*) on the ground that it does not comply with regulation 7.

Procedure on revocation of authorisation

9.—(1) If the Department proposes to revoke the authorisation of a building society on any ground mentioned in regulation 8(1), it shall serve a notice on the building society, and on every director of the building society, stating—

(*a*) that it proposes to revoke the building society's authorisation; and

(*b*) the reasons for the proposed revocation; and

(*c*) that the building society may make representations with respect to the proposed revocation within such period of not less than fourteen days as may be specified in the notice, and that, if the building society so requests, the Department will afford to it an opportunity of being heard by it within that period.

(2) Before reaching a decision to revoke the authorisation of a building society on any ground mentioned in regulation 8(1) the Department shall consider any representations which have been made in accordance with paragraph 1(*c*).

(3) On revoking the authorisation of a building society, the Department shall serve on the building society, and on every director of the building society, a notice in Form AJ of Schedule 2, together with a notice of the reasons for the revocation; and where the ground for revocation is a ground mentioned in regulation 8(1), the Department shall not have power to revoke the building society's authorisation unless all such reasons are those, or among those, stated in the notice mentioned in paragraph (1).

(4) A notice under this regulation may be served on a director of a building society by sending it by post to his address, or latest address, as notified to the Department or the Registrar by the building society or the director; and failure to serve a notice under this regulation on a director shall not affect the validity of a revocation of authorisation.

Appeals

10.—(1) An appeal shall lie to the Court at the instance of the building society concerned on any question of law arising from any decision of the Department to refuse to grant authorisation or to revoke authorisation; and if the Court is of the opinion that the decision appealed against was erroneous in point of law, it shall remit the matter to the Department with the opinion of the Court for re-determination by it.

(2) In paragraph (1) "the Court" means the High Court.

(3) No appeal to the Court of Appeal shall be brought from a decision of the High Court under paragraph (1), except with the leave of the High Court or of the Court of Appeal.

Effect of lack of authorisation on obligations of a building society and of its investors, etc.

11.—(1) Subject to paragraph (2), any obligation to make a payment to a building society which, by virtue of regulation 3, the building society is prohibited from accepting, shall be wholly rescinded.

(2) If—

(*a*) on the appointed day; or